

(g) *Government contractors.* (1) When DeCA contracts for the operation or maintenance of a system of records or a portion of a system of records by a contractor, the record system or the portion affected are considered to be maintained by DeCA and are subject to this part. DeCA is responsible for applying the requirements of this part to the contractor. The contractor and its employees are to be considered employees of DeCA for the purposes of the approved provisions of the Privacy Act during the performance of the contract. Consistent with the Defense Acquisition Regulation, contracts requiring the maintenance of a system of records or the portion of a system of records shall identify specifically the record system and the work to be performed and shall include in the solicitation and resulting contract such terms as are prescribed in the Defense Acquisition Regulation (DAR).⁴

(2) If the contractor must use or have access to individually identifiable information subject to this part to perform any part of a contract, and the information would have been collected and maintained by DeCA but for the award of the contract, these contractor activities are subject to this part.

(3) The restrictions in paragraphs (g)(1) and (g)(2) of this section do not apply to records:

(i) Established and maintained to assist in making internal contractor management decisions such as those maintained for use in managing the contract.

(ii) Those maintained as internal contractor employee records even when used in conjunction with providing goods and services to DeCA.

(4) Disclosure of records to contractors. Disclosure of personal records to a contractor for the use in the performance of any DeCA contract is considered a disclosure within the Department of Defense (DoD). The contractor is considered the agent of DeCA and is to be maintaining and receiving the records for DeCA.

(h) *Safeguarding personal information.* DeCA personnel will protect records in every system of records for confidentiality against alteration, unauthorized

disclosure, embarrassment, or unfairness to any individual about when information is kept.

(1) Supervisor/Manager paper records maintained by DeCA personnel will be treated as 'For Official Use Only' (FOUO) documents and secured in locked file cabinets, desks or bookcases during non-duty hours. During normal working hours, these records will be out-of-sight if the working area is accessible to non-government personnel.

(2) Personnel records maintained by DeCA computer room or stand alone systems, will be safeguarded at all times. Printed computer reports containing personal data must carry the markings FOUO. Other media storing personal data such as tapes, reels, disk packs, etc., must be marked with labels which bear FOUO and properly safeguarded.

(3) Adherence to paragraphs (h)(1) and (h)(2) of this section, fulfills the requirements of 32 CFR part 285.

(i) *Records disposal.* (1) DeCA records containing personal data will be shredded or torn to render the record unrecognizable or beyond reconstruction.

(2) The transfer of large quantities of DeCA records containing personal data to disposal activities is not considered a release of personal information under this part. The volume of such transfers makes it difficult or impossible to identify easily specific individual records. Care must be exercised to ensure that the bulk is maintained so as to prevent specific records from becoming readily identifiable. If the bulk is amaintained, no special procedures are required. if the bulk cannot be maintained, dispose of the records by shredding or tearing to render the record unrecognizable or beyond reconstruction.

§ 327.6 Collecting personal information.

(a) *Collect directly from the individual.* To the greatest extent practicable, collect personal information directly from the individual to whom it pertains if the information may be used in making any determination about the rights, privileges, or benefits of the individual under any Federal program.

(b) *Collecting personal information from third parties.* It may not be practical to collect personal information directly

⁴See footnote 3 to § 327.5.

from an individual in all cases. Some examples of this are:

(1) Verification of information through third party sources for security or employment suitability determinations;

(2) Seeking third party opinions such as supervisory comments as to job knowledge, duty performance, or other opinion-type evaluations;

(3) When obtaining the needed information directly from the individual is exceptionally difficult or may result in unreasonable costs; or

(4) Contacting a third party at the request of the individual to furnish certain information such as exact periods of employment, termination dates, copies of records, or similar information.

(c) *Collecting social security numbers (SSNs).* (1) It is unlawful for DeCA to deny an individual any right, benefit, or privilege provided by law because an individual refuses to provide his or her SSN. Executive Order 9397 authorizes solicitation and use of SSNs as numerical identifiers for individuals in most Federal record systems, however, it does not provide mandatory authority for soliciting.

(2) When an individual is requested to provide their SSN, they must be told:

(i) the uses that will be made of the SSN;

(ii) The statute, regulation or rule authorizing the solicitation of the SSN; and

(iii) Whether providing the SSN is voluntary or mandatory.

(3) Once the SSN has been furnished for the purpose of establishing a record, the notification in paragraph (c)(2) of this section is not required if the individual is only requested to furnish or verify the SSNs for identification purposes in connection with the normal use of his or her records.

(d) *Privacy act statements.* When a DeCA individual is requested to furnish personal information about himself or herself for inclusion in a system of records, a Privacy Act Statement is required regardless of the medium used to collect the information, e.g., forms, personal interviews, telephonic interviews. The statement allows the individual to make a decision whether to provide the information requested. The

statement will be concise, current, and easily understood and must state whether providing the information is voluntary or mandatory. If furnishing the data is mandatory, a Federal statute, Executive Order, regulation or other lawful order must be cited. If the personal information solicited is not to be incorporated into a DeCA system of records, a PA statement is not required. This information obtained without the PA statement will not be incorporated into any DeCA systems of records.

(1) *The DeCA Privacy Act Statement will include:*

(i) The specific Federal statute or Executive Order that authorized collection of the requested information;

(ii) The principal purpose or purposes for which the information is to be used;

(iii) The routine uses that will be made of the information;

(iv) Whether providing the information is voluntary or mandatory; and

(v) The effects on the individual if he or she chooses not to provide the requested information.

(2) *Forms.* When DeCA uses forms to collect personal information, placement of the Privacy Act advisory statement should be in the following order of preference:

(i) Below the title of the form and positioned so the individual will be advised of the requested information,

(ii) Within the body of the form with a notation of its location below the title of the form,

(iii) On the reverse of the form with a notation of its location below the title of the form,

(iv) Attached to the form as a tear-off sheet, or

(v) Issued as a separate supplement to the form.

(3) *Forms issued by non-DoD Activities.* Ensure that the statement prepared by the originating agency on their forms is adequate for the purpose for which DeCA will use the form. If the statement is inadequate, DeCA will prepare a new statement before using the form. Forms issued by other agencies not subject to the Privacy Act but its use requires DeCA to collect personal data, a Privacy Act Statement will be added.